IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19175 of 2003

Between:

1 Perka Mallaiah s/o Late Durgaiah, aged about 52, Occu: Labour & Sethusindi;
.

2 P.Shankaraiah s/o Late Durgaiah, aged about 50 years, Occ: Labout & Sethusindi;

3 P.Devaiah s/o Late Durgaiah, aged about 48 years, Occ: Labour & Sethusindi;

4 P.Madunaiah s/o Late Durgaiah, aged about 46 years, Occ: Labour & Sethusindi;

5 P.Ramaiah s/o Late Durgaiah , aged about 42 years, Occ: Labour & Sethusindi.

(All residents of Rangampalli village, Peddapalli Mandal, Karimnagar District)

..... PETITIONERS

AND

1 The State of A.P. through its Principal Secretary (Revenue) Secretariat, Hyderabad
2 Chirra Ramlinga Reddy s/o Late Ram Reddy
3 C.Jagan Mohan Reddy s/o Late Ram Reddy
4. N. Laxmirajam s/o VEnkatapathi
5 V.Mallaiah s/o Venkati

R-2 to R-5 are residents of Rangampalli (village) Peddapalli Mandal, Karimnagar District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass order or orders U/A 226 of the Constitution of India by issuing a writ of certiorary or like any other appropriate writ or writs declaring the order dated 19/5/2003 in appeal no.F1/50/2000 passed by the Joint Collector - cum- Addl. District Magistrate, Karmnagar, holding the same as illegal arbitrary and contrary to the principles of natural justice and be pleased to pass such other order or orders.

For the Petitioner: MR.G.MADHUSUDHAN REDDY, Advocate

For the Respondent No.1: GP FOR REVENUE

For the Respondents 2 to 5: Sri V.RAMACHANDER RAO, Advocate

The Court made the following :

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

W.P. No. 19175/2003

ORDER:

The petitioner No.5 made a representation dt. 26-12-1997 to the Revenue Divisional Officer, Peddapalli stating that his father was allotted an extent of Ac. 4-30 guntas of land as Sunkari Inam land, who mortgaged the land with one Vaida Veeraiah by taking an amount of Rs.300/-, 7 bags of paddy and 3 bags of maize and on expiry of his father, Perka Durgaiah, he informed Vyda Veeraiah that he is ready to repay the mortgaged amount, he refused to return the land to the applicant, who is the legal heir of the inamdar. On making such representation, the matter was referred to Mandal Revenue Officer, Peddapalli for enquiry, who submitted his report stating that for return of the mortgaged land, the respondents who have been in actual possession of the land should satisfy the definition of "occupant" under Section 2(6) of A.P. Record of Rights Act, 197. Since from 1965-66 the inam lands have been treated as patta lands, the purchasers who have been in possession of inam land validated the sale under Section 50-B of the A.P (Telangana Area) Tenancy and Agricultural Lands Act,1950 and based upon the same, pattedar passbooks and title deeds were issued and Perka Ramaiah has no right over the land. On considering the report of the Mandal Revenue Officer, the Revenue Divisional Officer held that issuance of pattedar passbooks and title deeds do not suffer from any illegality, by his proceedings No.B/3112/98 dt. 3-11-2000. Aggrieved by the same, the petitioners herein filed an appeal under Section 158 of the A.P. (Telangana Area) Land Revenue Act, 1317 Fasli before the Joint Collector, Karimnagar. The very same Revenue Divisional Officer,

Peddapalli, who has been promoted as Joint Collector, Karimnagar heard the appeal and dismissed the same. Questioning the same, the present writ petition has been filed.

The only submission raised by the learned counsel for the petitioners is that the Joint Collector who passed the order initially cannot hear the appeal and same has to be heard by another Joint Collector or Collector. In view of the same, impugned order should be set-aside and the matter should be remitted to Joint Collector.

Unless the petitioners establish that the original authority gets jurisdiction to decide the issue, then only it has to be seen whether the appeal filed by the petitioners can be heard by the Joint Collector or not.

When the petitioners' father was granted patta during his lifetime, he sold the above land in favour of the respondents 2,4, and 5 through simple sale deeds, which was validated under Section 50-B of the A.P (Telangana Area) Tenancy and Agricultural Lands Act, 1950 vide Tahsildar, Peddapalli proceedings in Ref.No.B2/7716/71 dt. 8-10-1971 and patta entries were mutated in pahani of 1995-1996 and pattedar passbooks were also issued. Apart from the same, in the pahanai patrika for the year 1961-62 the fourth respondent's name was recorded as cultivator and names of respondents 2,4 and 5 were recorded as cultivators in the pahani patrikas for the years 1967-68, 1980-81, 1983-84, 1986-87, 1987-88, 1989-90, 1992-93 to 1995-96. When the land is inam land, for which patta was granted in favour of original inamdar, namely, the petitioners' father and respondents 2,4 and 5 who are successors of inamdar on abolition of imams, they are entitled to occupancy certificates since they have been in possession of the property on 1-11-1973. Since the sale deeds were validated under Sec. 50-B, which have not been challenged by the petitioners, on which basis pattedar pass books were issued to the respondents, if the petitioners are aggrieved by the validation of sale, the proper remedy for them is to file an appeal against such validation before the appropriate authority or appeal under Section 5(5) of A.P.ROR Act

against issuance of pattedar pass books, if any. In view of the same, entire proceedings initiated by the petitioners cannot be traceable to any kind of power either on the Revenue Divisional Officer or Joint Collector. In view of the same, setting aside the impugned order and remanding the matter does not arise. The petitioners, if aggrieved for validation of sale, proper remedy for them is to file an appeal before the appropriate authority under the provisions of Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 but not by way of representation to return of the land.

The writ petition is accordingly dismissed. No costs.

A.GOPAL REDDY, J

Date: 17-11-2004

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To

1 The Principal Secretary, Government of A.P., Revenue Department, Secretariat, Hyderabad

2. 2 CCs to the Govt., Pleader for Revenue, High Court Buildings, Hyderabad.

3. 2 CD copies.